

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EDMUND LOWELL FIELDS, #487029,

Petitioner,

v.

CASE NO. 2:12-CV-12658
HONORABLE DENISE PAGE HOOD

DAVID BERGH,

Respondent.

ORDER DENYING MOTIONS TO EXPAND THE RECORD

Michigan prisoner Edmund Lowell Fields (“Petitioner”) has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the validity of his state criminal proceedings and current confinement. This matter is before the Court on Petitioner’s motions to expand the record to add materials related to his state criminal proceedings, including letters to counsel and a judge, affidavits, and his motion for relief from judgment. Petitioner states that such materials were submitted to the state courts as part of his motion for relief from judgment. Respondent has not filed a reply to the motion.

The Court may permit the record to be expanded to include additional materials relevant to the determination of the habeas petition. *See* Rule 7, Rules Governing Section 2254 Cases. Respondent, however, has not yet submitted an answer to the petition or the state court record. Consequently, Petitioner’s requests to expand the record are premature. Moreover, to the extent that the requested materials were submitted to the state courts on direct or collateral review, they are part of the state court record which will be filed by Respondent pursuant to Rule 5 of the Rules Governing Section 2254 Cases. To the extent that the materials are new and were not part of the state court record, they

may not be considered by the Court on habeas review. *See Cullen v. Pinholster*, __ U.S. __, 131 S. Ct. 1388, 1398 (2011) (ruling that habeas review under 28 U.S.C. §2254(d) is “limited to the record that was before the state court that adjudicated the claim on the merits”). Accordingly, the Court **DENIES** Petitioner’s motions. The Court will bear in mind Petitioner’s requests should any relevant materials be missing and necessary for the proper resolution of this matter. He need not file another motion on this issue.

IT IS SO ORDERED.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: October 26, 2012

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 26, 2012, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager